



## Illinois Department of Corrections

### Administrative Directive

Number: <b>03.01.307</b>	Title: <b>Discrimination and Harassment</b>	Effective: <b>10/1/2021</b>
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Authorized by:	<i>[Original Authorized Copy on File]</i> <b>Rob Jeffreys</b> Director
Supersedes:	03.01.307 effective 10/1/2020

<b>Authority:</b> 730 ILCS 5/3-2-2 775 ILCS 5/1-101 et seq. 42 USC Section 2000e	<b>Related ACA Standards:</b> 05-ACI-1C-06, 05-ACI-1C-09, 05-ACI-1D-10, and 05-ACI-5E-02
<b>Referenced Policies:</b> 01.12.101, 03.01.305, 03.01.310	<b>Referenced Forms:</b> DOC 0279 – Equal Employment Opportunity and Affirmative Action Complaint DOC 0434 – Incident Report

#### **I. POLICY**

The Department prohibits any form of unlawful discrimination and harassment. All employees are entitled to a work environment free of discrimination and harassment based on race, color, religion, gender, national origin, ancestry, age, marital status, citizenship status, sexual orientation, military status, unfavorable military status, arrest record, language, order of protection status, pregnancy or disability.

#### **II. PROCEDURE**

##### **A. Purpose**

The purpose of this directive is to establish written procedures governing the responsibilities of staff for compliance with Department policy prohibiting unlawful discrimination and harassment.

##### **B. Applicability**

This directive is applicable to all facilities, offices, programs and parole services within the Department.

##### **C. Facility Reviews**

A facility review of this directive shall be conducted at least annually.

##### **D. Designees**

Individuals specified in this directive may delegate stated responsibilities to another person or persons unless otherwise directed.

##### **E. Definitions**

Chief Administrator – the Chief Administrative Officer of a correctional facility or program site, or for all other offices, the respective Deputy Directors or Chiefs.

Harassment – verbal or physical conduct that denigrates or shows hostility or aversion toward an individual or group because of race, color, religion, gender, national origin, age, sexual orientation, military status, unfavorable military status, arrest record, language, order of protection status, pregnancy or disability, and that has the purpose or effect of:

1. Creating an intimidating, hostile or offensive working environment;

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2. Unreasonably interfering with an individual's work performance; or
3. Otherwise adversely affecting an individual's employment opportunities.

Supervisor – an employee officially assigned on an on-going basis to: assign, review and control work of subordinate staff; complete and sign performance evaluations; recommend compensation; recommend and implement discipline; approve time off; and make recommendations to hire, fire, promote and demote. This does not include lead workers. Higher level employees than the supervisor within the same chain-of-command shall have the same responsibilities for purposes of this directive as the supervisor.

Unlawful discrimination – discrimination against a person because of his or her race, color, religion, gender, national origin, ancestry, age, marital status, citizenship status, sexual orientation, military status, unfavorable military status, arrest record, language, order of protection status, pregnancy or disability.

#### **F. General Provisions**

1. For purposes of this directive, examples of discrimination include, but are not limited to, the following:
  - a. Less favorable treatment because of race, color, religion, gender, national origin, ancestry, age, marital status, citizenship status, sexual orientation, military status, unfavorable military status, arrest record, language, order of protection status, pregnancy or disability; and
  - b. Use of a neutral employment practice that has a disparate impact on a protected class group and is not justified by business needs.
2. For purposes of this directive, examples of harassment include, but are not limited to, the following:
  - a. Epithets, slurs, insults, humor or jokes, negative stereotyping, or threatening, intimidating, or hostile acts that relate to race, color, religion, gender, national origin, age, sexual orientation, military status, unfavorable military status, arrest record, language, order of protection status, pregnancy or disability; and
  - b. Written or graphic material such as posters, signs, pin-ups, electronic mail, internet materials, cartoons, graffiti, slogans, or other materials of a harassing nature that denigrates or shows hostility or aversion toward an individual or group because of race, color, religion, gender, national origin, age, sexual orientation, military status, unfavorable military status, arrest record, language, order of protection status, pregnancy or disability and that is placed on walls, bulletin boards, or elsewhere on the employer's premises, or circulated in the workplace.
  - c. Digital harassment including, but not limited to, intimidation, offensive jokes, epithets or name calling, ridicule or mockery, or lewd, obscene or offensive messages or pictures sent via state electronic devices.
3. Posters explaining employee rights that are published by the Equal Employment Opportunity Commission (EEOC) shall be posted at each facility and at each staffed building in the general office in a prominent and accessible location where notices to employees are customarily posted. The Department's Affirmative Action Office will provide each facility with an EEOC poster. Additional posters may be obtained by contacting:

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EEOC Publication Information Center  
P. O. Box 12549  
Cincinnati, OH 45212-3362

1-800-669-3362 or by visiting the EEOC website at: [www.eeoc.gov](http://www.eeoc.gov)  
(Scroll down to the bottom of the page and click on "EEO IS The Law" Poster".)

4. The Chief Administrator shall ensure that all current and new employees have access to and are advised of the contents of this directive on an annual basis. A copy of this directive need not be given to each employee; however, documentation including the employees' signatures shall be maintained to verify that each employee has been advised of this directive annually. A copy of this directive shall be made available to any employee upon request.
5. Training on discrimination and harassment prevention and the agency's discrimination and harassment policy shall be included in pre-service training for new employees and shall be a component of ongoing training programs.
6. All employees with supervisory responsibilities shall complete training that includes prevention of discrimination and harassment and handling of complaints. This training shall be completed within the first six months of initial appointment to a supervisory position.
7. The Office of Affirmative Action shall be available to provide assistance on the complaint process to any employee who believes that he or she has been subjected to discrimination or harassment in accordance with the provisions of this directive and Administrative Directives 03.01.305 and 03.01.310. The address and telephone number of the Office of Affirmative Action shall be posted in an accessible location.
8. An employee may contact the Illinois Department of Human Rights (IDHR) or the EEOC about filing a formal complaint. An IDHR complaint must be filed within 300 days of the alleged incident(s) unless it is a continuing offense. A complaint with the EEOC must be filed within 300 days. Charges received directly from the EEOC or IDHR shall be immediately forwarded to the Office of Affirmative Action. However, employees are urged to use the Department's internal complaint process to obtain a prompt, effective resolution to complaints.
9. Employees shall report promptly to the OEIG and/or the Ethics Officer any information concerning harassment and/or discrimination. Failure to report such misconduct shall be cause for discipline, up to and including discharge.

#### **G. Requirements**

1. Employees shall refrain from any actions that may be considered discriminating and harassing.
2. Any employee who engages in or knowingly condones discrimination or harassment shall be subject to disciplinary action, including discharge.
3. Each supervisor shall maintain a workplace free of discrimination or harassment by promoting a professional environment and by addressing an observed or reported incident of discrimination or harassment as a serious form of employee misconduct.

#### **H. Internal Complaint Process**

1. An employee who observes offensive behavior should directly and clearly express objection to the offending person and request that the offensive behavior stop.
2. Any employee who believes that he or she is the victim of discrimination or harassment shall:

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- a. Notify the employee's immediate supervisor and document the incident on an Incident Report, DOC 0434;
  - b. Notify the next person in the chain-of-command if the employee's immediate supervisor is the person alleged to have engaged in the discriminating or harassing conduct and document the incident on a DOC 0434; or
  - c. Report the discriminating or harassing conduct directly to the Office of Affirmative Action which shall report the incident to the appropriate Chief Administrator.
3. Immediately document the incident on a DOC 0434 or on an Equal Employment Opportunity and Affirmative Action Complaint, DOC 0279.
4. A supervisor receiving an oral or written report of discrimination or harassment shall notify the Chief Administrator of the allegations in a timely manner. This requirement also applies to anonymous complaints or cases where the employee tells the supervisor about behavior considered discriminatory or harassing but does not want to make a formal complaint. The Chief Administrator shall notify the Department's Affirmative Action Administrator. Initial notification may be made verbally with a follow up report of the allegations documented in writing.
5. The Chief Administrator shall consider ways to minimize the possibility of continued discrimination or harassment or retaliation while the allegations are under review or investigation such as reassigning the accused employee. Prior to reassigning the alleged victim, the Chief Administrator shall consult with the Office of Affirmative Action.
6. The Chief Administrator shall initiate a review of the allegations and respond as soon as possible within five working days or upon the employee's return to work by taking one or more of the following actions:
  - a. Discuss the allegations with the reporting employee;
  - b. Discuss the allegations with the charged employee;
  - c. Refer the incident to the Office of Affirmative Action for formal investigation;
  - d. Refer the charged employee for disciplinary action, if warranted; or
  - e. Take other corrective action.
7. Allegations of conduct which may constitute criminal activity shall also be reported in accordance with Administrative Directive 01.12.101.
8. In all cases, the Chief Administrator shall:
  - a. Within five working days of being advised of the allegations, or upon the employee's return to work, inform the alleged victim in writing of the action being taken;
  - b. Submit to the Office of Affirmative Action a copy of any written complaint, a summary of any verbal complaint, and a copy of the response to the alleged victim; and
  - c. When it is determined that discrimination or harassment has occurred, take prompt, appropriate corrective action, including discipline, lock out, or other similar measures. If the evidence is inconclusive, the Chief Administrator shall consider whether preventative measures such as training or monitoring should be taken.

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- d. Submit to the Office of Affirmative Action a copy of all employee disciplinary decisions involving discrimination or harassment within 60 calendar days of investigative outcome.

**I. Investigations**

1. The Office of Affirmative Action shall promptly investigate complaints referred for investigation. Internal Investigations shall submit a copy of any investigation report in which harassment or discrimination issues were brought forth during the course of an investigation to the Office of Affirmative Action.
2. The Office of Affirmative Action shall ensure that the Chief Administrator, the alleged victim, and the employee alleged to have engaged in discrimination or harassment are informed of the outcome of any formal investigation.
3. Employees are required to cooperate in any investigation into a complaint of discrimination or harassment. Failure to do so may result in disciplinary action.

**J. Department Volunteers, Interns, Contractual Personnel, and Persons Employed by Contractors**

1. Volunteers, interns, contractual personnel and employees of contractors shall refrain from discrimination and harassment.
2. Training on the Department's discrimination or harassment policy shall be included in orientation of volunteers and interns and pre-service training of contractual personnel and employees of contractors.
3. A volunteer, intern, contractor, or employee of a contractor who believes that he or she has been subjected to discrimination or harassment in connection with their service to the Department shall immediately report the incident in writing to the Department employee overseeing the services of the volunteer, intern, contractor, or person employed by a contractor, the Volunteer Service Coordinator, when applicable, the Chief Administrator, or the Office of Affirmative Action.
4. Reports of discrimination or harassment involving a volunteer, intern, contractual personnel, or employee of a contractor in cases where the harasser or victim is an employee of the Department shall be investigated by the Department. The Chief Administrator and the Office of Affirmative Action shall take the same actions to respond as is required in Paragraph II.H.
5. Reports of discrimination or harassment involving a volunteer, intern, contractual personnel, or employee of a contractor that do not involve an employee of the Department shall be reported to the Office of Affirmative Action for a determination of the appropriate action to be taken.
6. Volunteers, interns, contractual personnel and employees of contractors are required to cooperate in any discrimination or harassment investigation conducted by the Department.

**K. Retaliation**

Retaliatory action against anyone alleging discrimination or harassment in good faith is prohibited even if the complaint is not substantiated. Retaliation against witnesses acting in good faith shall also be prohibited. However, given the seriousness of the consequences for the accused, any employee who knowingly makes a false charge or provides false information, including but not limited to false information provided in statements, incident reports, correspondence or an interview, shall be subject to disciplinary action, including discharge. False charges shall not include charges made in good faith that cannot be substantiated.

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**L. Confidentiality**

Information pertaining to a complaint of discrimination or harassment shall be kept confidential and only disclosed in accordance with this directive or to persons with a need to know the information.

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